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200.07.09 DEPARTMENT OF VETERANS AFFAIRS PAYMENTS (VA BENEFITS)

The Department of Veterans Affairs (VA) has numerous programs that make payments to recipients and their families. Treatment of those VA payments for SSI/Medicaid purposes depends on the nature of the payments. The most common types of VA payments discussed in this section are:

- Pensions
- Compensation
- Educational Assistance
- Aid and Attendance Allowance
- Housebound Allowance
- Clothing Allowance
- Payment Adjustment for Unusual Medical Expenses
- Payments to Vietnam Veterans' children with Spina Bifida
- Insurance Payments

Explore the possibility of receipt of, or potential eligibility for, a VA payment whenever it becomes known an applicant or recipient is:

- A veteran
- The child or spouse of a disabled or deceased service person or veteran
- An unmarried widow or widower of a deceased service person or veteran
- The parent of a service person or veteran who died before 1/1/1957 from a service-connected cause

VA and the Utilization of Benefits Provision

An applicant or recipient, who is potentially eligible for any type of VA benefits, must be advised in writing to apply for those benefits as a condition of eligibility. When a client is determined ineligible for VA benefits at home, the case must be documented for referral to VA if the client subsequently enters a nursing facility. DOM-312, Notice of Potential Eligibility for VA Benefits, is used to notify the client of the requirement to file and follow through with an application.

NOTE: VA Aid and Attendance (A&A) is not a required benefit under the Utilization of Benefits Provision. The potentially-eligible client must be advised to apply for A&A, but there is no penalty for failing to apply when it is the only benefit involved.

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200.07.09A VA PENSION PAYMENTS

Pension payments are based on a combination of service, an age of 65 or over and a nonservice-connected disability or death. With a few rare exceptions noted below, VA pension payments are based on need.

- **Payments for Dependents**

VA may consider dependents' needs in determining a pension; however, normally VA will not make a pension payment directly to a dependent during the lifetime of the veteran. Instead, the amount of the veteran's basic pension is increased if the veteran has dependents.

A VA pension payment that has been increased for dependents is an augmented VA payment. A VA pension payment made directly to the dependent of a living veteran is an apportioned payment. The treatment of these payments is discussed later in the VA Benefits section.

- **Frequency of Pension Payments**

Pension payments are usually paid monthly; however, when the monthly payment is less than \$19, VA will pay quarterly, bi-annually or annually. VA may also make an extra payment if an underpayment is due. VA payments made less frequently than monthly are income in the month received for Medicaid eligibility purposes.

- **Unusual Medical Expenses (UME)**

When computing some needs-based pension payments, VA deducts unusual medical expenses from any countable income. This computation may result in an increase in a pension payment or in an extra payment. An increase or extra payment resulting from this computation is not income. See full discussion of UME later in this chapter.

All VA pensions, except the exceptions listed below, are Federally-funded income based on need. As such, these payments are unearned income and the \$50/\$20 general income exclusion is not applied.

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VA PENSION PAYMENTS (Continued)

Exceptions

- VA Aid and Attendance and Housebound Allowances are not income. All or part of a VA pension may be subject to this rule.
- VA payments resulting from unusual medical expenses are not income. All or part of a VA pension payment may be subject to this rule.
- Certain pensions paid to veterans and their dependents are not needs-based. These pensions are unearned income and the \$50/\$20 general exclusion does apply. This exception applies to pensions paid on the basis of:
 - A Medal of Honor, or
 - A special act of Congress.

Assume that a VA pension is partially or entirely needs-based unless there is evidence to the contrary.

Veterans and Survivors Pension Improvement Act (VA Improved Pension)

This act signed, into law October 1978 and effective January 1979, changed the method of determining the pension payable. The new rates of payment are not automatic; therefore, the veteran or survivor must file an application with VA to establish entitlement under the improved pension.

In the majority of cases, entitlement under the improved pension results in increased payments; therefore, recipients who receive benefits under the old VA law must file for the improved pension as a factor of eligibility under the Utilization of Other Benefits provision.

If approved for the improved pension, the client must accept the improved pension if it results in increased payments. If accepting the improved pension results in less money, the client is not required to accept.

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200.07.09B VA COMPENSATION PAYMENTS

Compensation payments are based on service-connected disability or death and may be based on need. The following chart describes types of compensation payments and their treatment

TYPE	TREATMENT
Death Compensation and Dependency and Indemnity Compensation (DIC) payments to a surviving parent of a veteran	Counted as unearned income. Since these payments are determined by the parent's income, they are income based on need and the \$50/\$20 general income exclusion does not apply
Compensation payments resulting from unusual medical expenses, aid and attendance allowances and housebound allowances	Not counted as income
Compensation payments to a veteran, spouse, child or widow(er)	Counted as unearned income subject to the \$50/\$20 general income exclusion

Payments for Dependents

VA may consider dependents' needs in determining a compensation payment. Compensation may be paid directly to dependent parents based on the service-connected death of a child.

A VA compensation payment that has been increased for dependents is an augmented VA payment. A VA compensation payment made directly to the dependent of a living veteran is an apportioned payment. The treatment of each type of payment is discussed later in the VA Benefits section.

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200.07.09C VA EDUCATIONAL BENEFITS

VA provides educational assistance under a number of different programs, including vocational rehabilitation. Depending on the nature of the program, different SSI/Medicaid income and resource policies apply. Generally, veterans have up to ten years after leaving the service to complete their education and twelve years to complete a program of vocational rehabilitation. Dependents and survivors of veterans may also be eligible for educational benefits.

Frequency of Payment

Payments are usually made monthly for months the veteran is in school or according to the school year (quarter, semester, other). However, payments may be made less frequently if school attendance is less than full time.

“Contributory” Programs

Some programs are “contributory”. That is, the money is contributed by the veteran to an educational fund while the veteran is in service and the VA matches the money when it is withdrawn to pursue an education. The veteran has a right to withdraw as a lump sum the funds he has contributed.

If payments are made under a contributory program or the nature of the program is in question, obtain the amount of the veteran’s contributions remaining in the fund that can be withdrawn as a lump sum and the portion of any VA educational benefit payment that is a withdrawal of the veteran’s contributions to the fund.

Treatment of VA Educational Benefits

The following are not considered in determining VA income:

- **Vocational Rehabilitation** - Payments made as part of a VA program of vocational rehabilitation are not income, including any augmentation for dependents. Subsistence allowances received during vocational rehabilitation may be augmented, but the augmentation is not income.
- **Withdrawal of Contributions** – Any portion of a VA educational benefit that is a withdrawal of the veteran’s own contributions is conversion of a resource and is not income.

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VA EDUCATIONAL BENEFITS (Continued)

The following must be considered in determining countable VA educational income:

- Any VA educational benefit payment or portion of such a payment funded by the government that is not part of a program of vocational rehabilitation is unearned income.
- Any portion of the VA educational benefit used to pay for tuition, books, fees, tutorial services, or other necessary educational expenses is excluded from income.
 - For SSI/Medicaid purposes, only the portion of an educational payment that is income to the veteran obtaining the education is subject to the educational expenses exclusion. The augmented portion is not subject to the educational expenses exclusion.
- The \$50/\$20 general income exclusion applies to countable VA educational assistance and these payments are subject to deeming.

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200.07.09D **AUGMENTED BENEFITS**

As previously indicated, VA often considers the existence of dependents when determining a veteran's or veteran's surviving spouse's eligibility for pension, compensation and educational benefits. If dependents are involved, the amount of the benefit payable may be larger. However, the presence of dependents does not necessarily mean a payment will be augmented.

Apportionment

Apportionment is direct payment of the dependent's portion of VA benefits to a dependent spouse or child. On a case-by-case basis, the VA decides whether and how much to pay by apportionment. Apportionment reduces the amount of the augmented benefit payable to the veteran or the veteran's surviving spouse. The portion of a VA benefit paid by apportionment to a dependent spouse or child is VA income to the dependent spouse or child. It is not a support payment from the designated VA beneficiary.

Augmentation

An augmented benefit is an increase in benefit payment to a veteran or a veteran's surviving spouse or higher VA income eligibility limits because of a dependent. An augmented payment includes a designated VA beneficiary's portion and one or more dependent portions. The augmented payment is usually issued as a single payment to the veteran or veteran's surviving spouse.

The designated beneficiary's portion is that part of an augmented benefit that is attributable to the veteran or the veteran's surviving spouse. It is VA income to the designated beneficiary.

The dependent's portion is VA income to the dependent, provided the dependent resides with the designated beneficiary. The dependent's portion is not a support payment from the designated beneficiary.

An absent dependent's portion of an augmented VA benefit is not VA income to either the dependent or the designated beneficiary. This is true even if the designated beneficiary continues to receive the absent dependent's portion. The dependent's portion of a VA benefit is not VA income to an absent dependent unless he receives it directly as an apportioned payment. Any portion of the benefit retained by the designated beneficiary is a countable resource.

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AUGMENTED BENEFITS (Continued)

Example: Raymond Jones is a Medicaid recipient. He has one dependent, Robert Jones, 17, who does not reside with him. Mr. Jones' VA pension is \$450 per month, which includes a portion for Robert. The VA verified Mr. Jones' portion of the VA payment as \$400. This is the amount of VA income counted for Mr. Jones. The \$50 augmented payment is not counted.

Under the Utilization of Benefits provision, the applicant who is an absent dependent of a veteran or veteran's surviving spouse receiving VA compensation, pension or educational benefits may be required to file for an apportioned (direct) payment as a condition of eligibility unless apportionment has been denied since the dependent began living apart from the designated beneficiary.

Other Payments to Absent Dependents

Any payment made from the designated beneficiary directly to an absent dependent is unearned income in the form of a gift, a support payment, or other income, not VA income.

200.07.09E VA CLOTHING ALLOWANCE

A lump sum clothing allowance is payable in August of each year to a veteran with a service-connected disability for which a prosthetic or orthopedic appliance, including a wheelchair, is used. The allowance is intended to help defray the increased cost of clothing due to wear and tear caused by the use of such appliances. A VA clothing allowance is not income for eligibility or Medicaid Income purposes.

200.07.09F PAYMENTS TO VETERANS' CHILDREN WITH CERTAIN BIRTH DEFECTS

These VA payments are made to, or on behalf of, the natural children of veterans, regardless of age or marital status, who are in the following categories:

- Vietnam veterans' children for any disability resulting from spina bifida;
- Korea service veterans' children for any disability resulting from spina bifida;
- Women Vietnam veterans' children for certain birth defects.

These payments are excluded from income and resources. The interest earned on unspent funds is excluded effective July 2004.

NOTE: While individuals receiving these payments are children of veterans, many would not meet the SSI definition of "child". They may be applicants/recipients and/or have spouses or children who are applicants/recipients.

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200.07.09G VA AID AND ATTENDANCE AND HOUSEBOUND ALLOWANCES

VA pays an allowance to veterans, spouses of disabled veterans and surviving spouses who are in regular need of the aid and attendance of another person or are housebound. This allowance will be combined with the individual's pension or compensation payment.

Treatment of VA Aid and Attendance and Housebound Allowances

VA Aid and Attendance and Housebound Allowances are not counted as income for eligibility purposes and must be excluded from the total VA payment when determining eligibility. In addition, these payments are not considered third party payments. Anyone in a nursing home who receives VA is potentially eligible for VA Aid and Attendance, except:

- Individuals drawing a "child's" benefit, i.e., those who became disabled prior to age 18 and draw a child's benefit into adult years, are not eligible for Aid and Attendance.
- Someone drawing only VA Insurance benefits is not eligible for Aid and Attendance. Individuals who draw a VA Insurance benefit usually also receive a DIC benefit and are potentially eligible for Aid and Attendance. However, it is possible for someone to draw only the VA Insurance payment. If the person draws only VA Insurance benefits, that person is not eligible for Aid and Attendance.

A nursing home applicant potentially eligible for VA Aid and Attendance must be advised in writing to apply for the payment. However, the penalty for failure to apply for the benefit is not applicable when the only benefit involved is VA Aid and Attendance.

Deeming

The income of an ineligible spouse or parent who receives income based on need is not deemed to an eligible in an at-home case. Needs-based pension and compensation payments are not deemable along with any other income of the ineligible. However, if an ineligible spouse or parent receives a VA payment that is attributed solely to A&A, the receipt of the payment will result in deeming of the remaining income of the ineligible to the eligible.

For example, if an ineligible spouse receives Social Security and VA that is attributed solely to A&A, the ineligible's Social Security would be deemable to the eligible. However, if the ineligible receives a VA needs-based pension or needs-based compensation payment in addition to payment for A&A, all income of the ineligible is non-deemable to the eligible person.

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200.07.09H VA PAYMENT ADJUSTMENT FOR UNUSUAL MEDICAL EXPENSES (UME)

VA considers unusual medical expenses when determining some needs-based pension and compensation payments. Expenses which exceed 5 percent of the maximum annual VA payment rate are considered unusual. The amount of the unusual medical expenses is deducted from countable income when computing the VA payment. As a result, the veteran, survivor or dependent may receive:

- A higher monthly VA payment,
- An extra payment or
- An increase in an extra payment.

Treatment of UME

VA payments resulting from unusual medical expenses are not income for eligibility or Medicaid Income purposes. These payments are considered as reimbursements for medical expenses or services that are excluded in the definition of income. Any unspent VA payments resulting from unusual medical expenses are resources if retained into the calendar month following the month of receipt.

NOTE: Prior to July 1, 1994, any VA increase or extra payment resulting from unusual medical expenses was income. The client was required to claim UME as part of the VA Improved Pension application process if UME would result in a higher benefit whether the client lived at home or in a nursing facility as part of the Utilization of Other Benefits provision.

Deeming

Under the deeming provision, the income of an ineligible spouse or parent who receives income based on need is not deemed to an eligible spouse or child in at-home cases. Needs-based pension and needs-based compensation payments are non-deemable along with any other income of the ineligible. However, if an ineligible spouse or parent receives a VA payment that is solely attributed to UME, the receipt of such payment will result in deeming the remaining income of the ineligible to the eligible.

For example, if an ineligible spouse receives Social Security and VA that is attributed solely to UME, the ineligible's Social Security would be deemable to the eligible. However, if the ineligible receives a VA needs-based pension or needs-based compensation payment in addition to payment for UME, all income of the ineligible is non-deemable to the eligible person.

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200.07.09I IS/CS CASES WITH UME OR A&A

If the institutional client (IS) receives non-countable income from UME or A&A, the community spouse (CS) will be allowed to receive the IS' payment attributable to UME or A&A in addition to the CS allocation amount computed in the Medicaid Income computation.

If the CS is not entitled to Medicaid, the extra income will have no impact. However, if the CS is Medicaid-eligible at home, the income that represents the UME (or A&A) payable to the IS is income to the CS. UME (and A&A) is disregarded as income only to the one entitled to the payment. When it becomes income available to the CS, it is income to the CS. If the income is given to anyone else, the possibility of a transfer of resources exists.

If the CS does not receive the income attributed to UME (or A&A), the possibility of excess resources building up for the IS exists. In this case, resources must be monitored closely.

Income Trust Cases

Count only basic VA benefits (as verified by VA) as an Income Trust client's total income available to fund the Income Trust. Any UME (or A&A) that is not counted as income can be retained by the client and/or spouse, as discussed above. The Income Trust Detail Sheet needs to specify the amount of VA that is not income.

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200.07.09J VA CONTRACT PATIENTS IN NURSING FACILITIES

Certain veterans qualify for VA contract payments which cover nursing home care for one to six months. The contract period begins with the date of the nursing home placement and covers the date of admission, but not the date the contract expires. For example, if a veteran is placed in a nursing facility under VA contract effective January 12, the contract will expire July 15 and VA will not reimburse the facility for the day of July 15.

It is possible for a service-connected veteran to be under VA contract in a nursing facility for an indefinite length of time. These individuals are not subject to the six-month limit for a VA contract as are nonservice-connected veterans.

Eligibility for Medicaid benefits other than nursing home reimbursement can begin prior to the date a VA contract expires, depending on the date the application is filed and provided the individual is eligible on all other factors. Reimbursement cannot begin until the date the VA contract expires.

Do not count VA money paid to the nursing home as income to the Medicaid applicant. Although a VA contract payment is a third party medical payment, it is not a payment subject to recovery by Medicaid.

The veteran's ongoing VA benefits may be reduced during the VA contract period and returned to the full amount following expiration of the contract. When verifying VA income for eligibility purposes during a VA contract period, determine if reduced benefits are involved and determine when full benefits will resume. Benefits are usually raised in the month following the month the contract ends.

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200.07.09K REDUCTION IN VA PENSION FOR VETERANS AND SURVIVING SPOUSES IN NURSING HOMES

Federal law limits the maximum pension that can be paid to or for veterans, who have neither a spouse nor a child, or surviving spouses (widows or widowers) without children who are covered by Medicaid for services furnished by a nursing facility to \$90. The maximum is \$90; therefore, the reduced pension payment may be less than \$90. The reduced pension of \$90 or less is VA Aid and Attendance in all cases, and is not income for eligibility purposes.

Since Federal law prohibits counting the reduced pension toward the veteran's cost of care (Medicaid Income), the Personal Needs Allowance (PNA) for all clients receiving a reduced pension is equal to the pension payment received. This is discussed further in the budgeting section.

Single veterans and surviving spouses of veterans (with no dependents) in nursing homes who become Medicaid-eligible must be referred to VA to determine if their VA pension is subject to the \$90 limit. The worker must set appropriate ticklers to check with VA to determine the case action needed.

\$90 VA Reduced Pension and Income Trust Cases

When a client who is eligible for long term care nursing home coverage under an Income Trust becomes entitled to the \$90 reduced pension and the client continues to need the Income Trust to remain eligible, do not count the \$90 as income to the Income Trust client.

The \$90 reduced pension is entered into MEDS as VA Reduced Pension and the remaining income of the client (which should continue to be \$1 less than the Institutional Income limit) is shown as Trust Income. The client will correctly receive the \$90 PNA in the Medicaid Income computation. A new Income Trust Detail Sheet is required to show the \$90 PNA.

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200.07.09L VA BENEFIT ALLOCATED TO A SPOUSE RECEIVING IBON

When the **spouse** of an applicant or recipient receives Income Based on Need (IBON), the source of the IBON may count a portion of the VA benefit as income to the spouse receiving the IBON. When this occurs, a deduction will be made from the VA benefit of the Medicaid client equal to the amount counted as income by the IBON source.

Verify from the source of the IBON (not VA) the amount of the VA benefit counted as income to the spouse. This amount will be deducted from the countable VA benefit verified by VA.

Example: An applicant receives a VA pension and his spouse receives SSI. SSI verifies \$50 of the VA pension is the spouse's income in the SSI computation; therefore, \$50 is deducted from the client's verified VA pension.

200.07.09M DETERMINING THE AMOUNT OF VA PAYMENTS

Whether or not an entire VA payment is counted as income depends on the type of VA payment being made and the policy in effect in the month of payment.

Overpayments recovered from VA benefits are included as income in determining eligibility and Medicaid Income. Refer to the discussion in Overpayment Recovery for specific policy governing overpayments withheld from unearned income.

In cases where VA "suspends" VA Improved Pension benefits for failure to verify medical expenses, it is not correct to adjust the VA benefit to zero. VA benefits are only temporarily suspended and will be restored back to the date suspended when verification is received. The benefit in effect prior to the suspension date continues to count as income until VA benefits are restored because the recipient remains entitled to the VA benefit. Any lump sum retroactive VA payment to restore suspended benefits is not counted as income since the income has already been counted.

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200.07.09N VERIFICATION OF VA PAYMENTS

Verification of benefits paid by the VA is obtained by writing the appropriate VA Center. Written verification is obtained by use of the VA verification form. These forms are mailed to:

Veterans' Service Division
VA Regional Office
1600 E Woodrow Wilson Drive
Jackson MS 39216

To obtain written verification of VA Insurance benefits, write to:

VA Center
P O Box 8079
Philadelphia PA 19101

VA Insurance payments do not change once the benefit amount has been determined. Once this benefit amount has been verified, it is not necessary to re-verify the benefit amount.